

SECOND REGULAR SESSION

SENATE BILL NO. 1183

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOLAN.

Read 1st time January 29, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3589S.01I

AN ACT

To repeal section 89.410, RSMo, and to enact in lieu thereof one new section relating to regulations governing the subdivision of land,

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 89.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 89.410, to read as follows:

89.410. 1. The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the city, town or village; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the city, town or village; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic; provided that, the city, town or village may only impose requirements [and] **for** the posting of bonds [regarding] **or** escrows for subdivision-related [regulations] **improvements** as provided for in subsections 2 to 4 of this section.

2. The regulation may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and utility installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council [may accept a] **will accept, at the option of the developer, an escrow secured**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

with cash, an escrow secured with an irrevocable letter of credit, or a surety bond [or], and said escrow or bond shall be in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the **escrow or bond**; provided that, the release of such escrow **or bond** by the city, town or village shall be as specified in this section. The council may enforce the **escrow or bond** by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

3. The regulations shall provide that in the event a developer who has posted an escrow or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the subdivision property prior to full release of the escrow or bond, the municipality will accept a replacement escrow from the successor developer in the form allowed in subsection 2 of this section and in the amount of the escrow or bond held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement escrow, the city, town, or village shall release the original escrow or bond in full and release the prior developer from all further obligations with respect to the subdivision improvements.

4. The regulations shall provide that any escrow **or bond** amount held by the city, town or village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. Any such category of improvement or utility work shall be deemed to be completed upon certification by the city, town or village that the project is complete in accordance with the ordinance of the city, town or village including the filing of all documentation and certifications required by the city, town or village, in complete and acceptable form. The release shall be deemed effective when the escrow funds **or bond amount** are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds **or bond amount** are hand delivered to an authorized person or place as specified by the owner or developer.

[4.] 5. If the city, town or village has not released the escrow funds **or bond**

amount within thirty days as provided in this section, the city, town or village shall pay the owner or developer in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the escrow funds **or bond amount** have been released. Any owner or developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action brought pursuant to this section, the court may award the prevailing party or the city, town or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

[5.] **6.** Nothing in this section shall apply to performance, maintenance and payment bonds required by cities, towns or villages.

[6.] **7.** Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council.

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